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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92050789
Party	Plaintiff Nartron Corporation
Correspondence Address	HOPE V. SHOVEIN BROOKS KUSHMAN P.C. 1000 TOWN CENTER, 22ND FLOOR SOUTHFIELD, MI 48075 UNITED STATES rtuttle@brookskushman.com, hshovein@brookskushman.com
Submission	Plaintiff's Notice of Reliance
Filer's Name	Hope V. Shovein
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Signature	/hope v shovein/
Date	09/23/2010
Attachments	Nartron Not Reliance Exhibits 13 - 17.pdf ( 40 pages )(1737222 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

NARTRON CORPORATION

Petitioner,

v.

Cancellation No. 92050789

HEWLETT-PACKARD  
DEVELOPMENT COMPANY, L.P.,

Respondent.

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**EXHIBIT 13**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Trademark Registration No. 3,600,880

Registered: April 7, 2009

Trademark: TOUCHSMART

NARTRON CORPORATION,

Petitioner

v.

HEWLETT-PACKARD  
DEVELOPMENT COMPANY, L.P.,

Respondent

Cancellation No. 92050789

**RESPONDENT'S INITIAL DISCLOSURES**

Pursuant to Section 2.120(a)(3) of Title 37 of the Code of Federal Regulations and Rule 26(a)(1) of the Federal Rules of Civil Procedure, Respondent Hewlett-Packard Development Company, L.P. ("Respondent") hereby makes the following initial disclosures. These initial disclosures are based on information now reasonably available, prior to discovery and after making in good faith such inquiry and investigation as is reasonable under the circumstances. Respondent will correct or supplement these disclosures pursuant to Rule 26(e) should it subsequently become aware of additional relevant information to be disclosed. Respondent makes these disclosures without waiving any claim of privilege, work product protection, or other basis for nondisclosure, and reserves the right to object to discovery into any listed subject matter.

RESPONDENT'S INITIAL DISCLOSURES

**A. Individuals Likely To Have Discoverable Information.**

Pursuant to Rule 26(a)(1)(A), Respondent hereby discloses the following potential witnesses known to it at this time who are likely to have discoverable information relevant to the claims and defenses in this case, unless solely for impeachment, along with the possible subject matter of their testimony. The employees of Respondent identified below may be contacted in this action only through Respondent's counsel.

WITNESS IDENTIFICATION	ADDRESS & TELEPHONE NO.
Jean Newmann, Marcom Programs Mgr II	Hewlett-Packard Company 11445 Compaq Center Dr. W. Houston, TX 77070

Respondent reserves the right to supplement or amend this witness disclosure pursuant to Rule 26(e) if additional witnesses or subjects are identified and to call at trial as its own witnesses any witnesses designated by any other party to this matter. To the extent that any other party fails to call at trial any or all of its disclosed witnesses, Respondent reserves the right to call them as witnesses and/or to introduce at trial relevant portions of their deposition testimony.

**B. Documents And Tangible Things.**

Pursuant to Rule 26(a)(1)(B), Respondent identifies the following general categories of "documents, electronically stored information, and tangible things" within Respondent's "possession, custody, or control" that Respondent may use to support its

claims and defenses. The potential location(s) of each category is indicated in parentheses. Respondent preserves its objections to production of specific documents and categories of documents until requested. In addition, a protective order sufficient to protect Respondent's confidential information will need to be entered prior to production of any confidential documents. The categories include, but are not limited, to the following:

1. Documents evidencing Respondent's trademark rights in the TOUCHSMART trademark Hewlett-Packard, Houston, Texas and Cupertino, California; and
2. Documents and things concerning Respondent's use of the TOUCHSMART trademark Hewlett-Packard, Houston, Texas and Cupertino, California.

At Petitioner's request, Respondent will permit inspection and/or copying of these documents, including relevant confidential documents after an appropriate protective order is entered in this action. Respondent reserves the right to amend or supplement this document disclosure pursuant to Rule 26(e) if additional documents are identified as pertinent to disputed facts. Respondent further reserves the right to supplement or modify this disclosure to the extent that Petitioner may further particularize its claims or contentions. Respondent is not providing documents or information not reasonably available at this time.

**C. Computation of Damages.**

Respondent is not seeking damages at this time.

**D. Insurance Agreements.**

Respondent is not aware of any applicable insurance agreements.

DATED: September 9, 2009

Respectfully Submitted

By: 

JEFFREY E. FAUCETTE  
DIANA D. DIGENNARO  
HOWARD, RICE, NEMEROVSKI,  
CANADY, FALK & RABKIN  
A Professional Corporation  
Three Embarcadero Center,  
Seventh Floor  
San Francisco, California 94111  
Telephone: 415/434-1600  
Facsimile: 415/217-5910

Attorneys for Respondent  
HEWLETT-PACKARD  
DEVELOPMENT COMPANY, L.P.,

**PROOF OF SERVICE BY MAIL**

The undersigned declares and says as follows: my business address is Three Embarcadero Center, Seventh Floor, San Francisco, CA 94111-4024. I am employed in the City and County of San Francisco; I am over the age of 18 years, and I am not a party to this cause. I am readily familiar with this business' practices for collection and processing of correspondence for mailing with the United States Postal Services. On the same day that a sealed envelope is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service with postage fully prepaid.

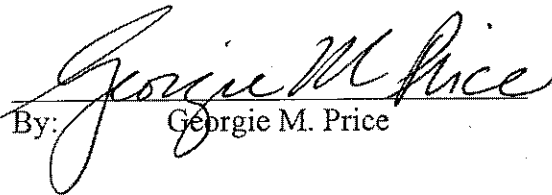
Date of Deposit: September 9, 2009

I served the within RESPONDENT'S INITIAL DISCLOSURES on Applicant/Registrant and counsel for Applicant/Registrant at the following address:

Hope V. Shovein  
Brooks Kushman P.C.  
1000 Town Center, 22nd Floor  
Southfield, MI 48075

by placing a true copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, for deposit in the United States mail for collection and mailing on this day following ordinary business practices of Howard, Rice, Nemerovski, Canady, Falk & Rabkin.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this Declaration is executed in San Francisco, California, this 9th day of September, 2009.

  
By: Georgie M. Price

RESPONDENT'S INITIAL DISCLOSURES

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

NARTRON CORPORATION

Petitioner,

v.

Cancellation No. 92050789

HEWLETT-PACKARD  
DEVELOPMENT COMPANY, L.P.,

Respondent.

---

**EXHIBIT 14**



1 MARTIN R. GLICK (Cal. Bar No. 40187)  
2 DIANA DIGENNARO (Cal. Bar No. 248471)  
3 HOWARD RICE NEMEROVSKI CANADY FALK &  
4 RABKIN

5 A Professional Corporation  
6 Three Embarcadero Center, 7th Floor  
7 San Francisco, California 94111-4024  
8 Telephone: 415/434-1600  
9 Facsimile: 415/217-5910

10 Attorneys for Respondent  
11 HEWLETT-PACKARD DEVELOPMENT  
12 COMPANY, L.P.

13 **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
14 **TRADEMARK TRIAL AND APPEAL BOARD**

15 NARTRON CORPORATION,  
16  
17 Petitioner,

18 v.

19 HEWLETT-PACKARD DEVELOPMENT  
20 COMPANY, L.P.,

21 Respondent.

Cancellation No. 92050789

Registration No. 3,600,880

Registration Date: April 7, 2009

Mark: TOUCHSMART

RESPONDENT HEWLETT-PACKARD  
DEVELOPMENT COMPANY, L.P.'S  
RESPONSES TO PETITIONER'S FIRST  
SET OF INTERROGATORIES

22 PROPOUNDING PARTY: Petitioner Nartron Corporation

23 RESPONDING PARTY: Respondent Hewlett-Packard Development Company, L.P.

24 SET NUMBER: One

1 Pursuant to C.F.R. Sections 2.116(a) and 2.120(a)(1) and Rule 33 of the Federal Rules of  
2 Civil Procedure, Respondent Hewlett-Packard Development Company, L.P. ("Respondent" or  
3 "HP") hereby responds and objects to the First Set of Interrogatories to Respondent  
4 ("Interrogatories") propounded by Petitioner Nartron Corporation ("Petitioner" or "Nartron").  
5

## 6 GENERAL OBJECTIONS

7 1. Respondent objects to the Requests to the extent they seek documents concerning  
8 proprietary or confidential information of Respondent. Respondent will produce documents  
9 containing confidential or proprietary information only pursuant to a protective order entered in this  
10 action.

11 2. Respondent objects to these Interrogatories to the extent they seek information, documents,  
12 and/or things other than those in the actual possession, custody or control of Respondent.

13 3. Respondent objects to these Interrogatories to the extent they call for information and/or  
14 documents that are equally or reasonably available to Petitioner.

15 4. Respondent reserves all objections as to the competency, relevance or admissibility of any  
16 information produced in response to these Interrogatories.

17 5. Respondent has not completed its investigation of the facts related to this case, has not  
18 completed discovery in this action, and has not completed its preparation for trial in this matter.  
19 Therefore, these responses are given without prejudice to Respondent's right to produce evidence of  
20 any fact or document subsequently discovered, or whose relevance becomes apparent, or to add,  
21 modify or otherwise change or amend the responses herein.  
22

## 23 RESPONSES TO INTERROGATORIES

### 24 INTERROGATORY NO. 1:

25 Identify by name, title, and business address, persons knowledgeable of Respondent's use of  
26 TOUCHSMART for *each* of the goods recited in U.S. Registration No. 3,600,880, as of the claimed  
27 date of first use, *i.e.*, January 29, 2007.  
28

1 **RESPONSE TO INTERROGATORY NO. 1:**

2 Respondent incorporates the General Objections as if fully set forth herein. Respondent also  
3 objects to this Interrogatory on the ground that it is not relevant to this action and not reasonably  
4 calculated to lead to the discovery of admissible evidence. Subject to and without waiving the  
5 general and specific objections set forth above, Respondent responds as follows:

6 The following person is knowledgeable of Respondent's use of TOUCHSMART as of the  
7 claimed date of first use, i.e., January 29, 2007. The employee of Respondent identified below may  
8 be contacted through Respondent's counsel at Howard Rice Nemerovski Canady Falk & Rabkin, A  
9 Professional Corporation, 3 Embarcadero Center, 7th Floor, San Francisco, California 94111, 415-  
10 434-1600.

Name and Title	Business Address
Jean Neumann, Creative Operations Manager, Personal Systems Group, WW Marketing	Hewlett-Packard Company 11445 Compaq Center Drive West Houston, TX 77070-1433 MS 040201

HOWARD  
RICE  
NEMEROVSKI  
CANADY  
FALK  
& RABKIN  
A Professional Corporation

16  
17 **INTERROGATORY NO. 2:**

18 State in factual detail the relationship(s) between and among: (i) Respondent Hewlett Packard  
19 Development Company, L.P., (ii) HPQ Holdings, LLC, and (iii) Hewlett Packard Co., including:

- 20 (a) business relationship(s),  
21 (b) licensor-licensee relationship(s) (if any),  
22 (c) parent-subsidary relationship(s) , and  
23 (d) common management and control.

24 **RESPONSE TO INTERROGATORY NO. 2:**

25 Respondent incorporates the General Objections as if fully set forth herein. Respondent also  
26 objects to this Interrogatory, including all of its subparts, on the grounds that it is not relevant to this  
27 action and not reasonably calculated to lead to the discovery of admissible evidence.  
28

1 **INTERROGATORY NO. 3:**

2 Identify by name, title, and business address, persons knowledgeable of the plans of  
3 Respondent for marketing the TOUCHSMART goods of U.S. Reg. No. 3,600,880.

4 **RESPONSE TO INTERROGATORY NO. 3:**

5 Respondent incorporates the General Objections as if fully set forth herein. Respondent also  
6 objects to this Interrogatory on the ground that it is not relevant to this action and not reasonably  
7 calculated to lead to the discovery of admissible evidence. Subject to and without waiving the  
8 general and specific objections set forth above, Respondent responds as follows:

9 The following person is knowledgeable of Respondent's plans for marketing the goods  
10 identified in U.S. Registration No. 3,600,880. The employee of Respondent identified below may  
11 be contacted through Respondent's counsel at Howard Rice Nemerovski Canady Falk & Rabkin, A  
12 Professional Corporation, 3 Embarcadero Center, 7th Floor, San Francisco, California 94111, 415-  
13 434-1600.

Name and Title	Business Address
Jean Neumann, Creative Operations Manager, Personal Systems Group, WW Marketing	Hewlett-Packard Company 11445 Compaq Center Drive West Houston, TX 77070-1433 MS 040201

19  
20 **INTERROGATORY NO. 4:**

21 State Respondent's position on *duPont* Factor No. 1, viz:

22 The similarity or dissimilarity of the marks [SMART TOUCH and  
23 TOUCHSMART] in their entireties as to appearance, sound,  
connotation and commercial impression.

24 **RESPONSE TO INTERROGATORY NO. 4:**

25 Respondent incorporates the General Objections as if fully set forth herein. Respondent  
26 additionally objects to this Interrogatory on the ground that it seeks information protected by the  
27 attorney-client communication or attorney work product privileges. Subject to and without waiving  
28 the general and specific objections set forth above, Respondent responds as follows:

1 The SMART TOUCH Mark and the TOUCHSMART Mark are dissimilar in their appearance,  
2 sound, connotation and commercial impression. See Respondent Hewlett-Packard Development  
3 Company, L.P.'s Motion for Summary Judgment.

4 **INTERROGATORY NO. 5:**

5 State Respondent's position on *duPont* Factor No. 2, viz:

6 The similarity or dissimilarity in nature of the goods and goods as  
7 described in an application or registration or in connection with which  
a prior mark is in use.

8 **RESPONSE TO INTERROGATORY NO. 5:**

9 Respondent incorporates the General Objections as if fully set forth herein. Respondent  
10 additionally objects to this Interrogatory on the ground that it seeks information protected by the  
11 attorney-client communication or attorney work product privileges. Subject to and without waiving  
12 the general and specific objections set forth above, Respondent responds as follows:

13 The claimed goods in the respective applications and registrations of the SMART TOUCH  
14 and TOUCHSMART marks are dissimilar. See Respondent Hewlett-Packard Development  
15 Company, L.P.'s Motion for Summary Judgment.

16 **INTERROGATORY NO. 6:**

17 State Respondent's position on *duPont* Factor No. 3, viz:

18 The similarity or dissimilarity of established, likely-to-continue trade  
19 channels.

20 **RESPONSE TO INTERROGATORY NO. 6:**

21 Respondent incorporates the General Objections as if fully set forth herein. Respondent  
22 additionally objects to this Interrogatory on the ground that it seeks information protected by the  
23 attorney-client communication or attorney work product privileges. Subject to and without waiving  
the general and specific objections set forth above, Respondent responds as follows:

24 The trade channels for "electronic proximity sensors and switching devices" are dissimilar to  
25 the trade channels for "personal computers, computer hardware, computer monitors, computer  
26 display screens." See Respondent Hewlett-Packard Development Company, L.P.'s Motion for  
27 Summary Judgment.  
28

1 **INTERROGATORY NO. 7:**

2 State Respondent's position on *duPont* Factor No. 6, viz:

3 The number and nature of similar marks in use on similar goods.

4 **RESPONSE TO INTERROGATORY NO. 7:**

5 Respondent incorporates the General Objections as if fully set forth herein. Respondent  
6 additionally objects to this Interrogatory on the grounds that it seeks information protected by the  
7 attorney-client communication or attorney work product privileges and calls for a legal conclusion.  
8 Subject to and without waiving the general and specific objections set forth above, Respondent  
9 responds as follows:

10 There are a significant number of marks in use and/or registered in International Class 9 that  
11 incorporate the elements "smart," "touch" or both. *See, e.g., In re Finisar Corp.*, 78 U.S.P.Q.2d  
12 1618, 1621 & n.6 (T.T.A.B. 2006) (noting 1,148 registered marks with the term "smart" in  
13 International Class 9). Moreover, there are also numerous marks identical to Respondent's SMART  
14 TOUCH mark coexisting in Class 9 on the Principal Register. *See, e.g., SMART-TOUCH*, Reg.  
15 No. 2,780,990 for "digital cameras and software for operating digital cameras" in Class 9; *SMART*  
16 *TOUCH*, Reg. No. 1,745,089 for "automatic weighing equipment; namely, retail programmable  
17 service counter scales" in Class 9; *SMART TOUCH*, Allowed Appl. No. 77542839 for "cell phone  
18 covers and cell phone screen protectors" in Class 9.

19 **INTERROGATORY NO. 8:**

20 State Respondent's position on *duPont* Factor No. 11, viz:

21 The extent to which Respondent has a right to exclude others from use  
22 of its mark on its goods.

23 **RESPONSE TO INTERROGATORY NO. 8:**

24 Respondent incorporates the General Objections as if fully set forth herein. Respondent  
25 additionally objects to this Interrogatory on the grounds that it calls for a legal conclusion and seeks  
26 information protected by the attorney-client communication or attorney work product privileges.  
27 Subject to and without waiving the general and specific objections set forth above, Respondent  
28 responds as follows:

Respondent claims the complete bundle of trademark rights in connection with the TOUCHSMART Mark. Such rights include, but are not limited to, notice to the public of Respondent's claim of ownership of the mark; a legal presumption of ownership nationwide, the exclusive right to use the mark on or in connection with the goods or services set forth in the registration, protection against the use of the mark or a similar mark on any product or service which would be reasonably believed to come from the same source as Respondent's products or services, or to be affiliated with, connected with, or sponsored by Respondent, and protection against the dilution of its mark.

**INTERROGATORY NO. 9:**

State the factual basis for Respondent's First Affirmative Defense: "Petitioner's action is barred by the doctrine of waiver or estoppel," according to the proof elements for the "waiver" and "estoppel" defenses (in *inter partes* proceedings before the Trademark Trial And Appeal Board, not trademark infringement actions).

**RESPONSE TO INTERROGATORY NO. 9:**

Respondent incorporates the General Objections as if fully set forth herein. Subject to and without waiving the General Objections set forth above, Respondent responds as follows:

At this time, Respondent withdraws its First Affirmative Defense, but reserves the right to assert it if new information becomes available in the course of discovery or as a result of additional investigation.

**INTERROGATORY NO. 10:**

In reference to the "Second Affirmative Defense" asserting: "Petitioner's action is barred by the doctrine of laches or acquiescence," state according to the proof elements for the "laches" and "acquiescence" defenses (in *inter partes* proceedings before the Trademark Trial And Appeal Board, not trademark infringement actions) the factual bases for these defenses.

**RESPONSE TO INTERROGATORY NO. 10:**

Respondent incorporates the General Objections as if fully set forth herein. Subject to and without waiving the General Objections set forth above, Respondent responds as follows:

At this time, Respondent withdraws its Second Affirmative Defense, but reserves the right to

1 assert it if new information becomes available in the course of discovery or as a result of additional  
2 investigation.

3 **INTERROGATORY NO. 11:**

4 In reference to the "Third Affirmative Defense" asserting: "Petitioner's action is barred  
5 because Petitioner acted with unclean hands," state according to the proof elements for the "unclean  
6 hands" defense (in *inter partes* proceedings before the Trademark Trial And Appeal Board, not  
7 trademark infringement actions) the factual bases for this defense.

8 **RESPONSE TO INTERROGATORY NO. 11:**

9 Respondent incorporates the General Objections as if fully set forth herein. Subject to and  
10 without waiving the General Objections set forth above, Respondent responds as follows:

11 At this time, Respondent withdraws its Third Affirmative Defense, but reserves the right to  
12 assert it if new information becomes available in the course of discovery or as a result of additional  
13 investigation.

14 **INTERROGATORY NO. 12:**

15 Identify the circumstances under which and the date on which Respondent became aware of  
16 Petitioner's Mark.

17 **RESPONSE TO INTERROGATORY NO. 12:**

18 Respondent incorporates the General Objections as if fully set forth herein. Respondent also  
19 objects to this Interrogatory on the ground that it is not relevant to this action and not reasonably  
20 calculated to lead to the discovery of admissible evidence. Respondent further objects to this  
21 Interrogatory on the ground that it seeks information protected by the attorney-client communication  
22 or attorney work product privileges.

23 **INTERROGATORY NO. 13:**

24 Identify documents containing any advice of counsel upon which Respondent will rely to  
25 show good faith in its adoption and use of the "TOUCHSMART" mark.

26 **RESPONSE TO INTERROGATORY NO. 13:**

27 Respondent incorporates the General Objections as if fully set forth herein. Respondent also  
28 objects to this Interrogatory on the ground that it is not relevant to this action and not reasonably



1 calculated to lead to the discovery of admissible evidence. Respondent further objects to this  
2 Interrogatory on the ground that it seeks information protected by the attorney-client communication  
3 or attorney work product privileges.

4 **INTERROGATORY NO. 14:**

5 Identify any advertising agency engaged by Respondent to advertise and promote  
6 Respondent's goods under its "TOUCHSMART" mark, including the names, titles, and business  
7 addresses of the advertising agency employees having the most knowledge of such advertising and  
8 promotion.

9 **RESPONSE TO INTERROGATORY NO. 14:**

10 Respondent incorporates the General Objections as if fully set forth herein. Respondent  
11 additionally objects to this Interrogatory on the grounds that it is overly broad, not relevant to this  
12 action and not reasonably calculated to lead to the discovery of admissible evidence.

13 **INTERROGATORY NO. 15:**

14 Identify each person who participated in the preparation of Respondent's responses to the  
15 foregoing interrogatories or furnished any information used in responding to each interrogatory,  
16 specifying the interrogatory response for which each such person participated in the preparation or  
17 contributed information.

18 **RESPONSE TO INTERROGATORY NO. 15:**

19 Respondent incorporates the General Objections as if fully set forth herein. Subject to and  
20 without waiving the General Objections set forth above, Respondent responds as follows:

21 The following person participated in the preparation of Respondent's responses to the  
22 foregoing interrogatories or furnished information used in responding to each interrogatory. The  
23 employee of Respondent identified below may be contacted through Respondent's counsel at  
24 Howard Rice Nemerovski Canady Falk & Rabkin, A Professional Corporation, 3 Embarcadero  
25 Center, 7th Floor, San Francisco, California 94111, 415-434-1600.

Name and Title	Business Address	Interrogatory No.
Jean Neumann, Creative Operations Manager, PSG WW Marketing	Hewlett-Packard Company 11445 Compaq Center Drive West	Nos. 1 and 3

Houston, TX 77070-1433

MS 040201

**INTERROGATORY NO. 16:**

Identify by name, business address and contact data, each of the "partners" referred to in the following quotation from the 2008 Form 10-K of Hewlett Packard Company:

**Sales, Marketing and Distribution**

Our customers are organized by consumer and commercial customer groups, and distribution is organized by direct and channel. Within the channel, we have various types of partners that we utilize for various customer groups. The partners include:

- retailers that sell our products to the public through their own physical or Internet stores; resellers that sell our products and services, frequently with their own value-products or services, to targeted customer groups;
- distribution partners that supply our solutions to smaller resellers with which we do not have direct relationships;
- independent distributors that sell our products into geographies or customer segments in which we have little or no presence;
- original equipment manufacturers ("OEMs") that integrate our products with their own hardware or software and sell the integrated products;
- independent software vendors ("ISVs") that provide their clients with specialized software products, frequently driving sales of additional non-HP products and services, and often assist us in selling our products and services to clients purchasing their products; and
- systems integrators that provide various levels and kinds of expertise in designing and implementing custom IT solutions and often partner with HPS [HP Services] to extend their expertise or influence the sale of our products and services.

**RESPONSE TO INTERROGATORY NO. 16:**

Respondent incorporates the General Objections as if fully set forth herein. Respondent additionally objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Respondent further objects to this Interrogatory on the grounds that it seeks confidential proprietary information, trade secrets, or legally protected information about Respondent.

1  
2 DATED: April 8, 2010.

3 MARTIN R. GLICK  
4 DIANA D. DIGENNARO  
5 HOWARD RICE NEMEROVSKI CANADY  
6 FALK & RABKIN  
7 A Professional Corporation

8 By: 

9 DIANA D. DIGENNARO

10 Attorneys for Respondent HEWLETT-PACKARD  
11 DEVELOPMENT COMPANY, L.P.

12 VERIFICATION

13 I, Jean Neumann, am employed by the Hewlett-Packard Company as Creative Operations  
14 Manager, Personal Systems Group, Worldwide Marketing. I am authorized to make this verification  
15 on behalf of Hewlett-Packard Development Company, L.P. ("Respondent") in connection with the  
16 United States Patent and Trademark Cancellation Proceeding No. 92050789, *Nartron Corporation*  
17 *v. Hewlett-Packard Development Company, L.P.* I have reviewed Respondent's Responses To  
18 Petitioner's First Set Of Rule 34 Requests To Respondent and Respondent's Response To  
19 Petitioner's First Set Of Interrogatories To Respondent, and I am familiar with the contents thereof.  
20 I am informed and believe that the responses stated therein are true and correct.

21 I declare under penalty of perjury under the laws of the United States that the foregoing is  
22 true and correct and that this verification was hereby executed on this 8th day of April, 2010 at  
23 Houston, Texas.

24   
25 Jean Neumann  
26  
27  
28

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

NARTRON CORPORATION

Petitioner,

v.

Cancellation No. 92050789

HEWLETT-PACKARD  
DEVELOPMENT COMPANY, L.P.,

Respondent.

---

**EXHIBIT 15**

MARTIN R. GLICK (Cal. Bar No. 40187)  
DIANA D. DIGENNARO (Cal. Bar No. 248471)  
HOWARD RICE NEMEROVSKI CANADY FALK &  
RABKIN

A Professional Corporation  
Three Embarcadero Center, 7th Floor  
San Francisco, California 94111-4024  
Telephone: 415/434-1600  
Facsimile: 415/217-5910

Attorneys for Respondent  
HEWLETT-PACKARD DEVELOPMENT  
COMPANY, L.P.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD

NARTRON CORPORATION,  
Petitioner,

v.

HEWLETT-PACKARD DEVELOPMENT  
COMPANY, L.P.,  
Respondent.

Cancellation No. 92050789

Registration No. 3,600,880

Registration Date: April 7, 2009

Mark: TOUCHSMART

RESPONDENT HEWLETT-PACKARD  
DEVELOPMENT COMPANY, L.P.'s  
RESPONSE TO PETITIONER'S FIRST SET  
OF RULE 34 REQUESTS TO  
RESPONDENT

PROPOUNDING PARTY: Petitioner Nartron Corporation

RESPONDING PARTY: Respondent Hewlett-Packard Development Company, L.P.

SET NUMBER: One

1 Pursuant to C.F.R. Sections 2.116(a) and 2.120(a)(1) and Rule 34 of the Federal Rules of Civil  
2 Procedure Respondent Hewlett-Packard Development Company, L.P. ("Respondent" or "HP")  
3 hereby objects and responds to the First Set of Rule 34 Requests to Respondent (the "Request" or  
4 the "Requests") propounded by Petitioner Nartron Corporation ("Petitioner" or "Nartron").

5 **GENERAL OBJECTIONS AND RESERVATIONS**

6 1. Respondent objects to the Requests to the extent that they seek documents concerning  
7 proprietary or confidential information of Respondent. Respondent will produce documents  
8 containing confidential or proprietary information only pursuant to a protective order entered in this  
9 action.

10 2. Respondent objects to the Requests to the extent that they seek information that is not in  
11 Respondent's possession, custody or control.

12 3. Respondent objects to the Requests to the extent they seek documents that are already in  
13 the possession of Petitioner or documents that are equally available to Petitioner, including but not  
14 limited to documents publicly available on Respondent's web sites or the web sites of third parties.

15 4. Respondent has not completed its investigation of the facts related to this case, has not  
16 completed discovery in this action, and has not completed its preparation for trial in this matter.  
17 Any responses or documents provided in connection with the Requests are based on information  
18 presently known to Respondent and are given without prejudice to Respondent's right to produce  
19 evidence of any subsequently discovered documents or facts. Without creating a duty or obligation  
20 to do so, Respondent reserves the right to make changes to these responses if it appears that  
21 omissions and/or errors have occurred, further or more accurate information becomes available  
22 and/or additional documents are discovered. Further discovery, independent investigation, legal  
23 research and analysis may lead to the addition of, or changes to, the responses herein set forth.

24 **RESPONDENTS TO DOCUMENT REQUESTS**

25 **DOCUMENT REQUEST NO. 1:**

26 Documents substantiating Respondent's use of TOUCHSMART for *each* of the goods recited  
27 in U.S. Registration No. 3,600,880, as of the claimed date of first use, *i.e.*, January 29, 2007.  
28

1 **RESPONSE TO DOCUMENT REQUEST NO. 1:**

2 Respondent incorporates the General Objections as if fully set forth herein. Respondent also  
3 objects to this Interrogatory on the ground that it is not relevant to this action and not reasonably  
4 calculated to lead to the discovery of admissible evidence. Subject to and without waiving the  
5 general and specific objections set forth above, Respondent refers Petitioner to the specimen  
6 submitted in connection with U.S. Trademark Application Serial No. 77/197,146, which is available  
7 on the U.S. Patent and Trademark Office website.

8 **DOCUMENT REQUEST NO. 2:**

9 Documents relating to any investigation of the availability for use of the mark  
10 TOUCHSMART for *each* of the goods recited in U.S. Registration No. 3,600,880, including  
11 searches, search reports, and the like.

12 **RESPONSE TO DOCUMENT REQUEST NO. 2:**

13 Respondent incorporates the General Objections as if fully set forth herein. Respondent also  
14 objects to this Interrogatory on the ground that it is not relevant to this action and not reasonably  
15 calculated to lead to the discovery of admissible evidence. Respondent further objects to this  
16 Request on the grounds that it calls for the production of documents protected by the attorney-client  
17 communication or attorney work product privileges.

18 **DOCUMENT REQUEST NO. 3:**

19 Documents relating or referring to any plans for marketing TOUCHSMART for *each* of the  
20 goods recited in U.S. Registration No. 3,600,880.

21 **RESPONSE TO DOCUMENT REQUEST NO. 3:**

22 Respondent incorporates the General Objections as if fully set forth herein. Respondent  
23 additionally objects to this Request on the grounds that it is overly broad, unduly burdensome,  
24 ambiguous as to "plans," not relevant to this action and not reasonably calculated to lead to the  
25 discovery of admissible evidence. Respondent further objects to this Request to the extent it seeks  
26 confidential proprietary information, trade secrets or legally protected information about  
27 Respondent.  
28

**DOCUMENT REQUEST NO. 4:**

Documents relating or referring to any survey, focus group, or similar form of market study concerning potential or actual use of TOUCHSMART by Respondent.

**RESPONSE TO DOCUMENT REQUEST NO. 4:**

Respondent incorporates the General Objections as if fully set forth herein. Respondent also objects to this Interrogatory on the ground that it is not relevant to this action and not reasonably calculated to lead to the discovery of admissible evidence.

**DOCUMENT REQUEST NO. 5:**

Marketing and promotional materials (hard copy and electronic) showing actual use of TOUCHSMART by Respondent.

**RESPONSE TO DOCUMENT REQUEST NO. 5:**

Respondent incorporates the General Objections as if fully set forth herein. Respondent additionally objects to this Request on the grounds that it is overly broad, unduly burdensome, ambiguous as to "materials," not relevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Subject to the general and specific objections set forth above, Respondent refers Petitioner to the specimen submitted in connection with U.S. Trademark Application Serial No. 77/197,146, which is available on the U.S. Patent and Trademark Office website, and to Respondent's website.

**DOCUMENT REQUEST NO. 6:**

Documents relevant to *duPont* Factor No. 1, viz:

The similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial impression.

**RESPONSE TO DOCUMENT REQUEST NO. 6:**

Respondent incorporates the General Objections as if fully set forth herein. Respondent additionally objects to this Request on the ground that it calls for the production of documents protected by the attorney-client communication or attorney work product privileges.

**DOCUMENT REQUEST NO. 7:**

Documents relevant to *duPont* Factor No. 2, viz:



1           The similarity or dissimilarity in nature of the goods and services as  
2           described in an application or registration or in connection with which a  
3           prior mark is in use.

4           **RESPONSE TO DOCUMENT REQUEST NO. 7:**

5           Respondent incorporates the General Objections as if fully set forth herein. Respondent  
6           additionally objects to this Request on the ground that it calls for the production of documents  
7           protected by the attorney-client communication or attorney work product privileges.

8           **DOCUMENT REQUEST NO. 8:**

9           Documents relevant to *duPont* Factor No. 3, viz:

10           The similarity or dissimilarity of established, likely-to-continue  
11           trade channels.

12           **RESPONSE TO DOCUMENT REQUEST NO. 8:**

13           Respondent incorporates the General Objections as if fully set forth herein. Respondent  
14           additionally objects to this Request on the ground that it calls for the production of documents  
15           protected by the attorney-client communication or attorney work product privileges.

16           **DOCUMENT REQUEST NO. 9:**

17           Documents relevant to *duPont* Factor No. 6, viz:

18           The number and nature of similar marks in use on similar goods.

19           **RESPONSE TO DOCUMENT REQUEST NO. 9:**

20           Respondent incorporates the General Objections as if fully set forth herein. Respondent  
21           additionally objects to this Request on the ground that it calls for the production of documents  
22           protected by the attorney-client communication or attorney work product privileges.

23           **DOCUMENT REQUEST NO. 10:**

24           Documents relevant to *duPont* Factor No. 11, viz:

25           The extent to which applicant has a right to exclude others from use  
26           of its mark on its goods.

27           **RESPONSE TO DOCUMENT REQUEST NO. 10:**

28           Respondent incorporates the General Objections as if fully set forth herein. Respondent

1 additionally objects to this Request on the ground that it calls for the production of documents  
2 protected by the attorney-client communication or attorney work product privileges.

3 **DOCUMENT REQUEST NO. 11:**

4 Documents substantiating Respondent's "First Affirmative Defense" of waiver or estoppel.

5 **RESPONSE TO DOCUMENT REQUEST NO. 11:**

6 Respondent incorporates the General Objections as if fully set forth herein. Subject to and  
7 without waiving the General Objections set forth above, Respondent responds as follows: *see*  
8 Response to Interrogatory No. 9 in Respondent Hewlett-Packard Development Company, L.P.'s  
9 Responses to Petitioner's First Set of Interrogatories.

10 **DOCUMENT REQUEST NO. 12:**

11 Documents substantiating Respondent's "Second Affirmative Defense" of laches or  
12 acquiescence.

13 **RESPONSE TO DOCUMENT REQUEST NO. 12:**

14 Respondent incorporates the General Objections as if fully set forth herein. Subject to and  
15 without waiving the General Objections set forth above, Respondent responds as follows: *see*.  
16 Response to Interrogatory No. 10 in Respondent Hewlett-Packard Development Company, L.P.'s  
17 Responses to Petitioner's First Set of Interrogatories.

18 **DOCUMENT REQUEST NO. 13:**

19 Documents substantiating Respondent's "Third Affirmative Defense" of unclean hands.

20 **RESPONSE TO DOCUMENT REQUEST NO. 13:**

21 Respondent incorporates the General Objections as if fully set forth herein. Subject to and  
22 without waiving the General Objections set forth above, Respondent responds as follows: *see*  
23 Response to Interrogatory No. 11 in Respondent Hewlett-Packard Development Company, L.P.'s  
24 Responses to Petitioner's First Set of Interrogatories.

25 **DOCUMENT REQUEST NO. 14:**

26 Documents recording any advice of counsel upon which Applicant will rely to show good  
27 faith in its adoption and use of the TOUCHSMART Mark.  
28

1 **RESPONSE TO DOCUMENT REQUEST NO. 14:**

2 Respondent incorporates the General Objections as if fully set forth herein. Respondent also  
3 objects to this Interrogatory on the ground that it is not relevant to this action and not reasonably  
4 calculated to lead to the discovery of admissible evidence. Respondent further objects to this  
5 Request on the ground that it calls for the production of documents protected by the attorney-client  
6 communication or attorney work product privileges.

7 **DOCUMENT REQUEST NO. 15:**

8 Documents sufficient to identify by name, business address and contact data, each of the  
9 "partners" referred to in the following quotation from the 2008 Form 10-K of Hewlett Packard  
10 Company:

11 **Sales, Marketing and Distribution**

12 ...  
13 Our customers are organized by consumer and commercial customer  
14 groups, and distribution is organized by direct and channel. Within the  
15 channel, we have various types of **partners** that we utilize for various  
customer groups. The **partners** include:

- 16 • retailers that sell our products to the public through their own  
17 physical or Internet stores; resellers that sell our products and  
services, frequently with their own value-products or services,  
to targeted customer groups;
- 18 • distribution partners that supply our solutions to smaller  
19 resellers with which we do not have direct relationships;
- 20 • independent distributors that sell our products into geographies  
or customer segments in which we have little or no presence;
- 21 • original equipment manufacturers ("OEMs") that integrate our  
22 products with their own hardware or software and sell the  
integrated products;
- 23 • independent software vendors ("ISVs") that provide their  
24 clients with specialized software products, frequently driving  
25 sales of additional non-HP products and services, and often  
assist us in selling our products and services to clients  
purchasing their products; and
- 26 • systems integrators that provide various levels and kinds of  
27 expertise in designing and implementing custom IT solutions  
and often partner with HPS [HP Services] to extend their  
28 expertise or influence the sale of our products and services.

1 **RESPONSE TO DOCUMENT REQUEST NO. 15:**

2 Respondent incorporates the General Objections as if fully set forth herein. Respondent  
3 additionally objects to this Request on the grounds that it is overly broad, unduly burdensome, and  
4 seeks documents that are not relevant to this action and not reasonably calculated to lead to the  
5 discovery of admissible evidence on matters reasonably in dispute. Respondent further objects to  
6 this Request on the ground that it seeks confidential proprietary information, trade secrets or legally  
7 protected information about Respondent and/or other third parties.

8 **DOCUMENT REQUEST NO. 16:**

9 All documents not otherwise listed in answer to the interrogatories and document requests,  
10 which were referred to or relied upon to prepare the answers to the interrogatories and document  
11 requests.

12 **RESPONSE TO DOCUMENT REQUEST NO. 16:**

13 Respondent incorporates the General Objections as if fully set forth herein. Respondent  
14 additionally objects to this Request on the ground that it calls for the production of documents  
15 protected by the attorney-client communication or attorney work product privileges. Subject to and  
16 without waiving the general and specific objections set forth above, Respondent will produce  
17 responsive, non-privileged documents in its possession, custody or control, other than copies of the  
18 document requests and interrogatories themselves, the pleadings in this action and the summary  
19 judgment papers and ruling on summary judgment.

20  
21 DATED: April 8, 2010.

22 MARTIN R. GLICK  
23 DIANA D. DIGENNARO  
24 HOWARD RICE NEMEROVSKI CANADY  
25 FALK & RABKIN  
26 A Professional Corporation

27 By: 

28 DIANA D. DIGENNARO

Attorneys for Respondent HEWLETT-PACKARD  
DEVELOPMENT COMPANY, L.P.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

NARTRON CORPORATION

Petitioner,

v.

Cancellation No. 92050789

HEWLETT-PACKARD  
DEVELOPMENT COMPANY, L.P.,

Respondent.

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**EXHIBIT 16**

HOWARD  
RICE  
NEMEROVSKI  
CANADY  
FALK  
& RABKIN

*A Professional Corporation*

July 8, 2010

Three Embarcadero Center  
Seventh Floor  
San Francisco, CA 94111-4024

Telephone 415.434.1600  
Facsimile 415.677.6262  
[www.howardrice.com](http://www.howardrice.com)

Writer's Information:

Diana D. DiGennaro  
Direct: 415.677.6365  
[ddigennaro@howardrice.com](mailto:ddigennaro@howardrice.com)

VIA E-MAIL HSHOVEIN@BROOKSKUSHMAN.COM

Hope V. Shovein  
Brooks Kushman PC  
1000 Town Center, 22nd Floor  
Southfield, MI 48075-1238

Re: *Nartron Corporation v. Hewlett Packard Development Company, L. P.*  
Cancellation No. 92050789

Dear Ms. Shovein:

I am writing in response to your letter of June 8, 2010 and per our phone conversation of July 7, 2010.

Per your request, we have identified below the Bates number range of the documents produced by Respondent that we believe are responsive to each of Petitioner's Rule 34 Requests.

Petitioner's Rule 34 Request No.	Responsive Documents Produced By Respondent
1	HP1-34, 132-171
3	HP35-51, 172-336
5	HP27-51, 132-179
6	HP1-34, 52-171, 337-355
7	HP1-336
8	HP1-336
9	HP337-355
10	HP1-355

Hope V. Shovein  
July 8, 2010  
Page 2

Subject to and without waiving the general and specific objections set forth in Respondent's April 8, 2010 Response To Petitioner's First Set Of Rule 34 Requests and Respondent's April 8, 2010 Responses To Petitioner's First Set Of Interrogatories, Respondent confirms that that no third-party search reports exist.

Enclosed is a privilege log identifying privileged documents that may be responsive to Petitioner's Rule 34 Request Nos. 2, 9 and 14 and Petitioner's Interrogatory No. 13.

Sincerely,

A handwritten signature in black ink, appearing to read "Diana DiGennaro". The signature is fluid and cursive, with the first name "Diana" and last name "DiGennaro" clearly distinguishable.

Diana DiGennaro

Enclosure

# RESPONDENT'S PRIVILEGE LOG

No.	Date	Author(s)	Recipient(s)	Copied To	Description	Privilege Type	Source	Steps To Ensure Confidentiality
1	8/4/06	Malia Abril	Fadi Manna	None	Email from paralegal employed by Respondent ("HP paralegal") to attorney employed by Respondent ("HP attorney") summarizing results of an internal search created and conducted by HP paralegal, reflecting her mental impressions regarding search results.	Work Product	Respondent's Files	No unauthorized persons have received this communication.
2	8/15/06	Malia Abril	Jim Struthers	None	Email from HP paralegal to HP attorney summarizing results of an internal update to Item No. 1 above, reflecting her mental impressions regarding search results.  Email attaches the results of the internal search created and conducted by HP paralegal, reflecting her mental impressions regarding relevant search parameters.	Work Product	Respondent's Files	No unauthorized persons have received this communication.
3	8/16/06	Jim Struthers	Malia Abril	Fadi Manna	Email from HP attorney to HP paralegal (copying HP attorney) regarding results of the internal searches referenced above.	Work Product	Respondent's Files	No unauthorized persons have received this communication.



RESPONDENT'S PRIVILEGE LOG

No.	Date	Author(s)	Recipient(s)	Copied To	Description	Privilege Type	Source	Steps To Ensure Confidentiality
4	8/24/06	Malia Abril	Jim Struthers	None	Email from HP paralegal to HP attorney discussing results of internal searches created and conducted by HP paralegal, reflecting her mental impressions regarding search results. Includes attachment with embedded comments by HP paralegal, reflecting her mental impressions regarding relevant search parameters and noteworthy search results.	Work Product	Respondent's Files	No unauthorized persons have received this communication.
5	9/22/06	Fadi Manna	Maureen Kelly	Jean Neumann	Email string to and from HP internal client and reflecting attorney advice regarding the TOUCHSMART mark.  Email attaches memorandum from HP attorney to client, reflecting counsel's advice to client regarding the TOUCHSMART mark.	Work Product & Attorney-Client Privilege	Respondent's Files	No unauthorized persons have received this communication.
6	9/11/07	Fadi Manna	Melanie Erasmus	None	Email from HP attorney to HP attorney forwarding 9/22/06 email and attachment (Item No. 5 above).	Work Product	Respondent's Files	No unauthorized persons have received this communication.
7	3/19/10	Malia Abril	Jennifer Prioleau	Melanie Erasmus	Email from HP paralegal to HP attorney (copying HP attorney) summarizing internal investigation of TOUCHSMART mark conducted by counsel.	Work Product	Respondent's Files	No unauthorized persons have received this communication.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

NARTRON CORPORATION

Petitioner,

v.

Cancellation No. 92050789

HEWLETT-PACKARD  
DEVELOPMENT COMPANY, L.P.,

Respondent.

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**EXHIBIT 17**

1 MARTIN R. GLICK (Cal. Bar No. 40187)  
2 DIANA DIGENNARO (Cal. Bar No. 248471)  
3 HOWARD RICE NEMEROVSKI CANADY FALK &  
4 RABKIN  
5 A Professional Corporation  
6 Three Embarcadero Center, 7th Floor  
7 San Francisco, California 94111-4024  
8 Telephone: 415/434-1600  
9 Facsimile: 415/217-5910

10 Attorneys for Respondent  
11 HEWLETT-PACKARD DEVELOPMENT  
12 COMPANY, L.P.

13 **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
14 **TRADEMARK TRIAL AND APPEAL BOARD**

15 NARTRON CORPORATION,  
16  
17 Petitioner,

18 v.

19 HEWLETT-PACKARD DEVELOPMENT  
20 COMPANY, L.P.,  
21  
22 Respondent.

Cancellation No. 92050789

Registration No. 3,600,880

Registration Date: April 7, 2009

Mark: **TOUCHSMART**

**RESPONDENT'S RESPONSE TO  
PETITIONER'S FIRST SET OF  
REQUESTS FOR ADMISSION**

23 PROPOUNDING PARTY: Petitioner Nartron Corporation

24 RESPONDING PARTY: Respondent Hewlett-Packard Development Company, L.P.

25 SET NUMBER: One

1 Pursuant to C.F.R. Sections 2.116(a) and 2.120(a)(1) and Rule 36 of the Federal Rules of  
2 Civil Procedure, Respondent Hewlett-Packard Development Company, L.P. ("Respondent" or  
3 "HP") hereby responds and objects to the First Set Of Requests For Admission propounded by  
4 Petitioner Nartron Corporation ("Petitioner" or "Nartron").

5  
6 **RESPONSE TO REQUESTS FOR ADMISSION**

7 **REQUEST FOR ADMISSION NO. 1:**

8 Admit that all documents produced by Respondent in response to Petitioner's First Set of  
9 Rule 34 requests are authentic; are what they purport to be; and are admissible as evidence in this  
10 proceeding.

11 **RESPONSE TO REQUEST FOR ADMISSION NO. 1:**

12 Respondent objects to this Request on the ground that whether the documents produced by  
13 Respondent "are what they purport to be" is ambiguous. Subject to and without waiving this  
14 objection, Respondent answers as follows: Admitted that the documents produced by Respondent  
15 are authentic. The request to admit whether these documents are "what they purport to be" is  
16 unclear and denied on that basis. To the extent Respondent produced documents that "purport to  
17 be" advertisements, press releases, registrations and product launch and branding documents,  
18 respectively, Respondent admits such documents are what they "purport to be." Respondent  
19 specifically denies that all of the documents produced by Respondent are admissible in this  
20 proceeding. The admissibility of these documents depends upon the purpose for which they are  
21 offered and therefore cannot be determined at this point.

22 **REQUEST FOR ADMISSION NO. 2:**

23 Admit that Respondent became aware of Petitioner's SMART TOUCH trademark identified  
24 in Registration No. 1,681,891 prior to filing Application No. 77/197/146 for TOUCHSMART,  
25 which matured into Registration No. 3,600,880.

26 **RESPONSE TO REQUEST FOR ADMISSION NO. 2:**

27 Respondent objects to this Request on the ground that it calls for information protected by the  
28 attorney-client communication or attorney work product privilege. Respondent further objects to

1 this Request on the ground that it is not relevant to this action and not reasonably calculated to lead  
2 to the discovery of admissible evidence. Subject to and without waiving these objections,  
3 Respondent answers as follows: Denied. Respondent is not aware of any non-attorney or non-  
4 paralegal knowledge by Respondent of Petitioner's mark prior to the filing of Application  
5 No. 77/197/146 for TOUCHSMART.

6 **REQUEST FOR ADMISSION NO. 3:**

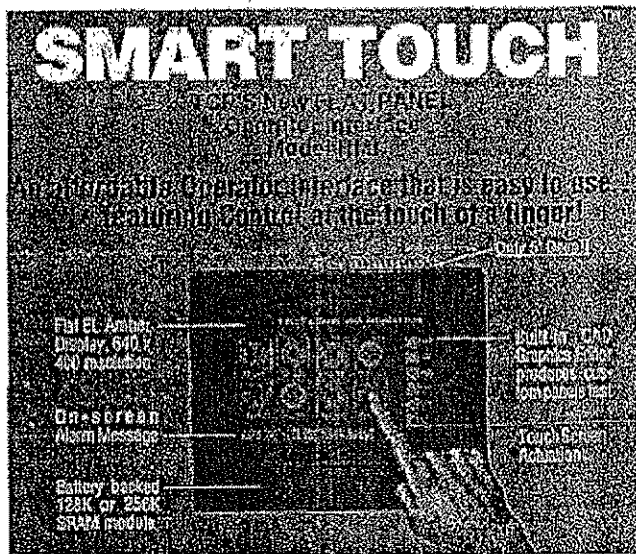
7 Admit that a trademark search was conducted by or on behalf of Respondent for  
8 TOUCHSMART prior to filing Application No. 77/197/146 for TOUCHSMART, which matured  
9 into Registration No. 3,600,880.

10 **RESPONSE TO REQUEST FOR ADMISSION NO. 3:**

11 Respondent objects to this Request on the ground that it is not relevant to this action and not  
12 reasonably calculated to lead to the discovery of admissible evidence. Respondent also objects to  
13 this Request on the ground that it calls for information protected by the attorney-client  
14 communication or attorney work product privilege. In addition, Respondent further objects on the  
15 ground that the term "trademark search" is ambiguous. Subject to and without waiving these  
16 objections, and to the extent "trademark search" is defined as a search performed by a third party,  
17 Respondent answers as follows: Denied.

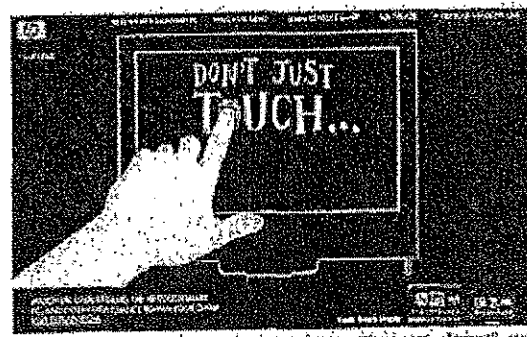
18 **REQUEST FOR ADMISSION NO. 4:**

19 Admit that the image on the right below is representative of one of Respondent's  
20 advertisements for its TOUCHSMART product(s).



HP TouchSmart / Main

Page 1 of 1



#### RESPONSE TO REQUEST FOR ADMISSION NO. 4:

Respondent objects to this Request on the ground that it is not relevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections, Respondent answers as follows: Admitted only that the image on the right is an advertisement for a TOUCHSMART product sold by Respondent. Respondent specifically denies that the image on the right is "representative" of Respondent's advertisements for its TOUCHSMART products. Respondent is prepared to meet and confer with Petitioner to reach a stipulation regarding the authenticity of advertisements, websites, registrations and the like to be used by either party to obviate the time and expense of otherwise establishing that such documents are authentic.

#### REQUEST FOR ADMISSION NO. 5:

Admit that Respondent's Mark, TOUCHSMART, is made up of the same two words as Petitioner's Mark, SMART TOUCH.

#### RESPONSE TO REQUEST FOR ADMISSION NO. 5:

Respondent answers as follows: Denied. Respondent's one-word mark is not "made up of" the same words as Petitioner's two-word mark.

#### REQUEST FOR ADMISSION NO. 6:

Admit that Respondent has a presence in the automotive industry.

1 **RESPONSE TO REQUEST FOR ADMISSION NO. 6:**

2 Respondent objects to this Request on the ground that it is not relevant to this action and not  
3 reasonably calculated to lead to the discovery of admissible evidence. Respondent further objects  
4 on the ground that "presence" is ambiguous. Subject to and without waiving these objections,  
5 Respondent answers as follows: Denied that Respondent has a "presence" in the automotive  
6 industry. HP sells products that may be used by companies in virtually every industry in the United  
7 States that engage in the manufacturing or design of products or that have almost any kind of  
8 automated support systems. HP customizes its design and manufacturing and business management  
9 products to be industry appropriate. HP does not make automobiles or automobile parts, nor does it  
10 market its TOUCHSMART products specifically to the automobile industry; it would not be  
11 regarded by those who do as having a "presence" of any kind in the automotive industry.

12 **REQUEST FOR ADMISSION NO. 7:**

13 Admit that the attached Exhibit 1 is a copy of Respondent's brochure titled "Improving  
14 automotive industry outcomes."

15 **RESPONSE TO REQUEST FOR ADMISSION NO. 7:**

16 Respondent objects to this Request on the ground that it is not relevant to this action and not  
17 reasonably calculated to lead to the discovery of admissible evidence. Subject to and without  
18 waiving these objections, Respondent answers as follows: Denied. As noted above, however,  
19 Respondent would be happy to engage in discussions aimed at establishing the authenticity of  
20 exhibits either side may offer as evidence in this matter.

1 DATED: July 8, 2010.

2 MARTIN R. GLICK  
3 DIANA D. DIGENNARO  
4 HOWARD RICE NEMEROVSKI CANADY  
5 FALK & RABKIN  
6 A Professional Corporation

7 By:

8   
9 DIANA D. DIGENNARO

10 Attorneys for Respondent HEWLETT-PACKARD  
11 DEVELOPMENT COMPANY, L.P.

12  
13 HOWARD  
14 RICE  
15 NEMEROVSKI  
16 CANADY  
17 FALK  
18 & RABKIN  
19 A Professional Corporation



1 **PROOF OF SERVICE**

2 I, Jennifer Kerr Hoskins, declare:

3 I am a resident of the State of California and over the age of eighteen years and not a party to  
4 the within-entitled action; my business address is Three Embarcadero Center, Seventh Floor, San  
5 Francisco, California 94111-4024. On July 8, 2010, I served the following document(s) described  
6 as :

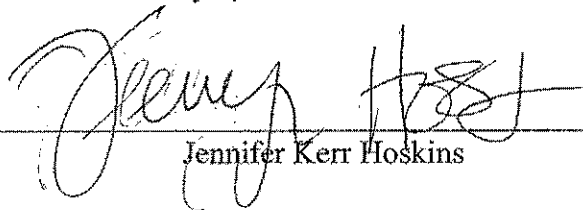
7 **RESPONDENT'S RESPONSE TO PETITIONER'S FIRST SET OF REQUESTS**  
8 **FOR ADMISSION**

- 9 ☐ by placing the document(s) listed above in a sealed envelope with postage thereon  
10 fully prepaid, in the United States mail at San Francisco, California addressed as set  
11 forth below.
- 12 ☒ by transmitting via email the document(s) listed above to the email address(es) set  
13 forth below on this date before 5:00 p.m.
- 14 ☒ by placing the document(s) listed above in a sealed Federal Express envelope and  
15 affixing a pre-paid air bill, and causing the envelope to be delivered to a Federal  
16 Express agent for delivery.

17 Hope V. Shovein  
18 Brooks Kushman PC  
19 1000 Town Center, 22nd Floor  
20 Southfield, MI 48075-1238  
21 [hshovein@brookskushman.com](mailto:hshovein@brookskushman.com)

22 I am readily familiar with the firm's practice of collection and processing correspondence for  
23 mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day  
24 with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of  
25 the party served, service is presumed invalid if postal cancellation date or postage meter date is more  
26 than one day after date of deposit for mailing in affidavit.

27 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
28 true and correct. Executed at San Francisco, California on July 8, 2010.

29   
Jennifer Kerr Hoskins